



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Lieutenant Colonel Arthur L. Rastetter, III, USAF
File: B-234135
Date: April 21, 1989

DIGEST

10 U.S.C. § 2774 authorizes waiver of a claim against a service member arising out of an "erroneous" payment of travel and transportation allowances. The Joint Federal Travel Regulations provide for the shipment of a member's household goods (HHG) at government expense upon a permanent change of duty station, not in excess of the member's maximum authorized HHG weight allowance. An Air Force officer's request for waiver of collection of an indebtedness arising from excess weight charges for shipment of HHG, incurred because of a delay in the issuance of his orders and his alleged resulting inability to dispose of the HHG which caused the excess, cannot be considered under the waiver statute since no "erroneous" payment by the government was involved.

DECISION

Lieutenant Colonel Arthur L. Rastetter, III, USAF, requests reconsideration of the Air Force Accounting and Finance Center's denial of his application for a waiver of a \$1,138.07 debt which resulted from the shipment of household goods (HHG) in excess of the authorized weight allowance. We conclude that the application for waiver was properly denied.

BACKGROUND

In 1985 Colonel Rastetter was assigned to Comiso Air Station, Italy, for a period not to exceed 1 year, with a tentative reassignment scheduled in June 1986 to Wright-Patterson Air Force Base (AFB), Ohio, near Dayton, where his family lived during his overseas tour. On April 9, 1986, Colonel Rastetter was informed of a change of assignment to Norton AFB, California, with a report-not-later-than-date (RNLTD) of July 10 to California. He arrived in Dayton, Ohio, on June 14. Movers packed and

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loaded his household goods from June 18-20 so that he could meet the July 10 RNLTD in California.

The Air Force does not dispute Colonel Rastetter's contention that under Air Force regulations he should have been notified of his reassignment to California on March 1, 1986, rather than 40 days later, nor that he should also have been advised of his right to extend the RNLTD to California 90 days. Colonel Rastetter suggests that as a result of this delayed notification, he was improperly deprived of an opportunity to sell or give away some of the family's furniture in order to meet the authorized weight limit. The Air Force has taken the position, however, that the delayed notification did not directly contribute to the overweight charge, since Colonel Rastetter should have anticipated a move from Italy a year after arriving, and that, in any event, the matter does not involve an "erroneous" payment of transportation allowances which may be considered under the waiver statute.

ANALYSIS AND CONCLUSION

Subsection 2774(a) of title 10, United States Code authorizes the waiver of--

"A claim of the United States against a person arising out of an erroneous payment of . . . travel and transportation allowances, to or on behalf of a member or former member of the uniformed services . . . the collection of which would be against equity and good conscience and not in the best interests of the United States"


By its express terms, this waiver authority applies only to claims "arising out of an erroneous payment." Thus, before a claim can be considered for waiver, it must be determined that the claim arose from an "erroneous payment" within the scope of the waiver statute.

It is the long-standing and standard practice of government agencies to ship the total weight of a qualifying individual's household goods at government expense and to then collect any charges for excess weight from the individual.

In our decision of June 21, 1988, B-229337, 67 Comp. Gen. ___, we observed that when a household goods shipment is made under this system, the government bill of lading constitutes a contract between the government and the carrier under which the carrier is entitled to be paid for

its services. We concluded that there is no "erroneous payment" for purposes of the waiver statutes where the government in the first instance pays or bears the cost of a household goods shipment which exceeds the applicable weight allowance in accordance with the standard procedures, since the government has made no "erroneous" payment, but has merely made payment in the normal course of business to satisfy its obligation to the carrier.

In our decision of June 21, 1988, supra, we also stated that there may be some cases where excess weight charges are incurred as the direct result of government error, such as where the excess weight was shipped on the basis of erroneous authorizing orders. We do not find that this case is one of these, however. Colonel Rastetter does not allege that his authorizing orders were erroneous, but that they were improperly delayed. Nevertheless, despite that delay, all of his household goods, at his direction, were correctly shipped, and the transportation charges were correctly paid by the government. Accordingly, in the particular circumstances presented, we concur in the Air Force's decision that the debt is not subject to consideration for waiver as an "erroneous" payment of transportation allowances.


for Comptroller General
of the United States